IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 14884 of 2007(V)

PETITIONER:

RAJAPPAN, PUTEHZHATHUVELIYIL
KOKKOTHAMANGALAM, CHERTHALA.

BY ADV. SRI.BECHU KURIAN THOMAS
SRI.PAUL JACOB (P)

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
SECRETARI, DEPARTMENT OF REVENUE,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. ASSISTANT EXCISE COMMISSIONER,
ALAPPUZHA.

3. CIRCLE INSPECTOR OF EXCISE,
CHERTHALA.

4. THE DEPUTY TAHSILDAR (RR),
CHERTHALA.

5. V.S.DIVAKARAN, VELIYIL HOUSE,
CHERTHALA, ALAPPUZHA DISTRICT.

6. UTHEESH UPENDRAN,
ANJILIMOOTTIL, NELLIMALA P.O., THIRUVALLA.

BY ADV. SRI.ARUN.B.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.C.NO.14884/07

PETITIONER'S EXHIBITS

EXT.P1 **TRUE COPY OF THE ORDER DTD. 7-9-98**

EXT.P2 **TRUE COPY OF THE JOINT SURETY BOND DTD. 7-9-98 ISSUED BY THE PETITIONER AND THE 5TH RESPONDENT.**

EXT.P3 **TRUE COPY OF THE ORDER DTD. 9-4-01 AND NUMBERED AS A6-3568/98**

EXT.P4 **TRUE COPY OF THE SHOW CAUSE NOTICE DTD. 24-7-03**

EXT.P5 **TRUE COPY OF THE REVENUE RECOVERY NOTICE DTD. 16-4-07**

EXT.P6 **TRUE COPY OF THE JUDGMENT DTD. 13-5-99 IN C.C.NO.676/98**

RESPONDENT'S EXHIBITS

EXT.R6(A) **TRUE COPY OF THE R.C.BOOK**

EXT.R6(B) **TRUE COPY OF THE GOODS CARRIAGE PERMIT DTD. 17/02/05**

EXT.R6(C) **TRUE COPY OF THE RECEIPT SHOWING THE PAYMENT OF VEHICLE TAX.**

EXT.R6(D) **TRUE COPY OF THE INSURANCE CERTIFICATE WITH RESPECT TO 6TH RESPONDENTS VEHICLE.**

EXT.R6(E) **TRUE COPY OF POLLUTION CONTROL CERTIFICATE DTD. 23/1/07**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

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WP.(C) No. 14884 of 2007

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Dated this the 15th day of October, 2007

JUDGMENT

Petitioner stood as surety for the release of a vehicle, even though it had been seized in a case registered under the Abkari Act. Ext.P2 is the surety bond. Admittedly the vehicle was released to the fifth respondent, but it was not produced before the second respondent despite repeated notices. There was a direction to seize the vehicle. Ext.P3 is in the year 2001. Petitioner has approached this court challenging Ext.P5, which is a revenue recovery notice and also seeks a direction to the third respondent to initiate proceedings to recover the vehicle from the sixth respondent.

2. Case of the sixth respondent is that the sixth respondent is a bonafide purchaser of the vehicle from one Sri. Kuruvila Thomas on 23.1.2005 as there were all the documents. Petitioner has allegedly paid Rs.50,000/- as per the interim order.

I leave open the right of the sixth respondent to work out his remedies in the appropriate forum in accordance with law. Learned

counsel for the petitioner prays that the sum of Rs.50,000/- may be returned as he has no independent liability and that the vehicle also has now been seized.

I find that the direction to produce the vehicle was in the year 2001 and the vehicle is seized only in the year 2007. Anyway, if the petitioner files a petition before the second respondent in regard to the return of the amount of Rs.50,000/-, a decision will be taken by him on the same in accordance with law within a period of two months from the date of receipt of the petition. Since the vehicle itself has been seized, Ext.P5 cannot be sustained. Ext.P5 is quashed.

The writ petition is disposed of as above.

(K.M. JOSEPH, JUDGE)

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